

### Subpart 509.3—First Article Testing and Approval

#### 509.306 Solicitation requirements.

The clauses at FAR 52.209-3 and 52.209-4 do not cover all the solicitation requirements described in FAR 9.306. If a solicitation contains a testing and approval requirement, the contracting officer must address the requirements in FAR 9.306(d) and (f) through (j) in the solicitation's Section H, special contract requirements.

[74 FR 12732, Mar. 25, 2009]

#### 509.308-1 Testing performed by the contractor.

In FSS solicitations and contracts that will require the contractor to perform testing, insert 552.209-72, Supplemental Requirements for First Article Approval—Contractor Testing, and FAR 52.209-3, Alternate I.

#### 509.308-2 Testing performed by the Government.

In FSS solicitations and contracts that will have the Government responsible for first article testing, insert 552.209.73, Supplemental Requirements for First Article Approval—Government Testing, and FAR 52.209-4, Alternate I.

### Subpart 509.4—Debarment, Suspension, and Ineligibility

#### 509.401 Applicability.

This subpart applies to all the following:

- (a) Acquisitions of personal property, nonpersonal services, construction, and space in buildings.
- (b) Acquisition of transportation services (Federal Management Regulation (FMR) Parts 102-117 and 102-118 (41 CFR parts 102-117 and 102-118)).
- (c) Contracts for disposal of personal property (FMR Parts 102-36 through 102-38 (41 CFR parts 102-36 through 102-38)).
- (d) Covered transactions as defined by 41 CFR part 105-68.

[74 FR 12732, Mar. 25, 2009]

#### 509.403 Definitions.

*Debarring official* means the Suspension and Debarment Official within the Office of the Chief Acquisition Officer.

*Fact-finding official*, means the Suspension and Debarment Official or a designee.

*Notice* means a letter sent by certified mail, return receipt requested, to the last known address of a party, its counsel, or agent for service of process. In the case of a business, such notice may be sent to any partner, principal officer, director, owner or co-owner, or joint venturer. If no return receipt is received within 10 calendar days of mailing, receipt will then be presumed.

*Suspending official* means the Suspension and Debarment Official within the Office of the Chief Acquisition Officer.

[64 FR 37207, July 9, 1999, as amended at 74 FR 12732, Mar. 25, 2009]

#### 509.405 Effect of listing.

#### 509.405-1 Continuation of current contracts.

(a) When a contractor appears on the current EPLS, consider terminating a contract under any of the following circumstances:

(1) Any circumstances giving rise to the debarment or suspension also constitute a default in the contractor's performance of the contract.

(2) The contractor presents a significant risk to the Government in completing the contract.

(3) The conduct that provides the cause of the suspension, proposed debarment, or debarment involved a GSA contract.

(b) Before terminating a contract when a contractor appears on the current EPLS, consider the following factors:

(1) Seriousness of the cause for debarment or suspension.

(2) Extent of contract performance.

(3) Potential costs of termination and reprocurement.

(4) Need for or urgency of the requirement, contract coverage, and the impact of delay for reprocurement.

(5) Availability of other safeguards to protect the Government's interest until completion of the contract.

(6) Availability of alternate competitive sources to meet the requirement